



Minnesota Pollution Control Agency

Office of the Commissioner

October 10, 2003

Jeff Klieve, Chair
Performance Track Participants Association
One Thomas Circle NW, Tenth Floor
Washington, DC 20005

Dear Mr. Klieve:

This letter is in response to your letter encouraging the Minnesota Pollution Control Agency (MPCA) to adopt the U.S. Environmental Protection Agency's (EPA) low inspection priority for Performance Track (PT) companies in Minnesota.

The MPCA supports the goals of the PT program: improved performance and the use of strong, self-correcting Environmental Management Systems (EMS) by organizations, whether regulated or unregulated. Our agency has participated in and observed the startup of the PT program and believes that incentives for EMS use could be stronger. To that end, the MPCA has piloted a flexible permit based on third-party audited EMSs for minor air sources. This permit offers the reduced inspection benefit, plus relief from minor and moderate amendments and reduced recordkeeping if actual emissions remain low. EPA has begun adjusting PT requirements to include independent assessment of an applicant's EMS, which is closer to Minnesota's approach.

The MPCA will, therefore, adopt EPA's low inspection priority policy for PT facilities at the state level. This will be a challenging effort for various stakeholders for three main reasons. First, MPCA and EPA will need effective coordination among multiple programs to set and maintain work plans which recognize the policy. The MPCA will also need to work with county and municipal programs responsible for hazardous waste oversight, and at this time, we are unable to predict their response. Second, all regulatory parties will need to inform PT member community stakeholders what alternative compliance and performance mechanisms are used under the PT program and deal with any concerns, particularly those concerns relating to PT members with locally-significant environmental impacts. Third is the challenge to PT member companies, who need to take very seriously the responsibility they are assuming for prevention, self-discovery, and timely self-correction of noncompliance.

We realize that neither EMSs nor our current regulatory system can guarantee constant compliance, but alternatives to established programs are likely to be watched and evaluated more rigorously than what they replace. Nevertheless, the MPCA believes in and will work to maintain the integrity of the PT program and its Minnesota members.

We will continue to work with EPA on the Performance Track program and with Minnesota stakeholders on other approaches to innovative regulation, and fully expect to make progress in these areas in coming years. Please feel free to contact me or my staff in the future to revisit these ideas as they develop further. Thank you.

Sincerely,

A handwritten signature in cursive script, reading "Sheryl A. Corrigan".

Sheryl A. Corrigan
Commissioner

SAC:jac

cc. David Reichert, IBM Rochester
Jeff Nelson, Andersen Windows
Brian Wright, 3M New Ulm
Jeff Adrian, The John Roberts Company
Mark Messersmith, EPA, Region 5